UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,955	03/31/2004	Jonathan Lee Orwant	528401-7	5873

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EXAMINER
WENDELL, ANDREW

ART UNIT	PAPER NUMBER
2618	

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/813,955	ORWANT ET AL.
	Examiner	Art Unit	
	Andrew Wendell	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on <u>30 June 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,9-25,28-42 and 45-50* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,9-25,28-42 and 45-50* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-3, 5, 9-25, 28-42, 45-48, and 50 are rejected under 35 U.S.C. 102(e) as

being anticipated by Teshima (US Pat Appl# 2002/0032035).

Regarding claim 1, Teshima's method for delivery of advertisement information to

mobile units teaches enabling the sender and the intended recipient to send and

receive an electronically deliverable message (Sections 0072, 0075, 0082, and 0149);

obtaining a message provided by the sender (Sponsor/User) (Sections 0015 and 0047-

0051); obtaining a location designated by the sender for delivery of the message

(Sections 0015 and 0047-0051); tracking a specified mobile object having a position-

determining device that determines its own current position, and which transmits its

then current position at preset time intervals (Sections 0015 and 0096); determining

from the transmitted current position whether the specified mobile object has reached

the designated location (Sections 0015 and 0099-0100); and initiating a procedure for

automatic delivery of the message electronically to the intended recipient upon the

specified mobile object being determined to have reached the designated location

(Sections 0015 and 0101-0102).

Regarding claim 2, Teshima teaches wherein the specified mobile object is the

intended recipient (Section 0015 and 0101).

Regarding claim 3, Teshima teaches wherein the specified mobile object is

identified by the sender, and is other than the intended recipient (Sections 0096-0100).

Regarding claim 5, Teshima teaches wherein the intended recipient is animate

(Passengers, Section 0007).

Regarding claim 9, Teshima teaches wherein the message is at least of text (Fig.

7).

Regarding claim 10, Teshima teaches wherein a mode in which the message is

reproduced for the intended recipient is in accordance with a setting controlled by the

intended recipient (Sections 0046-0047 and 0086).

Regarding claim 11, Teshima teaches wherein delivery of the message is

controlled in accordance with a delivery rule provided by the sender (Sections 0047-

0051).

Regarding claim 12, Teshima teaches wherein initiating the procedure for

automatic delivery of the message upon detection of the specified mobile object

reaching the designated location message comprises processing the delivery rule

(Section 0099-0100).

Regarding claim 13, Teshima teaches wherein the obtaining of the message

comprises receiving and storing a message based on input from the sender (Sections

0047-0051).

Regarding claim 14, Teshima teaches wherein the obtaining of the message

comprises retrieving a message from among a plurality of stored messages based on

input from the sender.

Regarding claim 15, Teshima teaches wherein the obtaining of the designated

location comprises obtaining a location based on input from the sender (Sections 0015

and 0047-0051).

Regarding claim 16, Teshima teaches wherein the obtaining of the designated

location comprises retrieving a location from among a plurality of stored locations

based on input from the sender (Sections 0100-0101).

Regarding claim 17, Teshima teaches further comprising obtaining an

identification of the intended recipient based on input from the sender (Section 0051

and 0068).

Regarding claim 18, Teshima teaches wherein the rule includes instructions for

repeating delivery of the message (Section 0137).

Regarding claim 19, Teshima teaches wherein the intended recipient includes a

plurality of recipients identified by the sender (Section 0051 and 0068).

Regarding claim 20, Teshima teaches providing each of the clients with a

position-determining device 56 (Fig. 3 and Sections 0147-0148); obtaining, at the

server, a message based on input from a first client (Sponsor/User) (Sections 0015

and 0047-0051); obtaining, at the server, a designated location based on input from the

first client (Sections 0015 and 0047-0051); obtaining, at the server, an identification of

a second client as the intended recipient of the message, based on input from the first

client (Section 0051 and 0068); obtaining, at the server, identification one of the clients

which is to be tracked for delivery of the message (Section 0051 and 0068);

determining, from the position-determining device of the client to be tracked for delivery

of the message, whether the client being tracked has arrived at the designated location

(Sections 0015 and 0099-0100); and automatically triggering electronic delivery of the

message to the intended recipient upon the tracked mobile client being determined to

have arrived at the designated location (Sections 0015 and 0101-0102).

Regarding claim 21, Teshima teaches wherein the client to be tracked for

delivery of the message is the second client, and wherein the step of obtaining

identification of a client to be tracked for delivery of the message comprises deriving

the identification from the identification of the second client (Sections 0097-0101).

Regarding claim 22, Teshima teaches wherein the step of obtaining identification

of a client to be tracked for delivery of the message comprises obtaining the

identification based on input from the first client (Sections 0097-0101).

Regarding claim 23, Teshima teaches providing each of the clients with a

position-determining device 56 (Fig. 3 and Sections 0147-0148); obtaining, at the

server, a message based on input from a first client (Sponsor/User) (Sections 0015

and 0047-0051); obtaining, at the server a designated location based on input from the

first client (Sections 0015 and 0047-0051); obtaining, at the server, a delivery rule

based on input from the first client for delivering the message to an intended recipient,

wherein the delivery rule includes arrival of a specified client from among the plurality

of clients at the designated location (Sections 0047-0051 and 0068); determining, from

the position-determining device of the mobile client, whether the specified mobile client

has arrived at the designated location (Sections 0015 and 0099-0100); and upon the

specified mobile client being determined to have arrived at the designated location,

triggering electronic delivery of the message to the intended recipient, based upon the

delivery rule (Sections 0015 and 0101-0102).

Regarding claim 24, Teshima teaches further comprising obtaining, at the server,

identity of the specified mobile client based on input from the first client (Section 0099-

0101).

Regarding claim 25, Teshima teaches further comprising obtaining, at the server,

identity of the intended recipient based on input from the first client (Sections 0099-

0101).

Regarding claim 28, Teshima teaches obtaining a message based on input from

the sender (Sponsor/User) (Sections 0015 and 0047-0051); obtaining a designated

location based on input from the sender (Sections 0015 and 0047-0051); obtaining

identification of at least two recipients, from among the plurality of potential recipients,

specified based on input from the sender as intended recipients of the message

(Sections 0047-0051, 0068, and 0099-0100); and automatically delivering the message

electronically to one of the intended recipients based upon the position of the one of

the intended recipients relative to another of the intended recipients, as derived from

the position-determining technology (Sections 0015 and 0101-0102).

Regarding claim 29, Teshima teaches wherein each of the plurality of potential

recipients includes a position-determining device to determine its current position

(Sections 0096-0100).

Regarding claim 30, Teshima teaches obtaining, at the server, a message based

on input from a first client (Sponsor/User) (Sections 0015 and 0047-0051); obtaining, at

the server, an identification of a second, mobile client as the intended recipient of the

message, based on input from the first client (Sections 0047-0051, 0068, and 0099-

0100); obtaining, at the server, an identification of a third client, based on input from

the first client (Sections 0047-0051, 0068, and 0099-0100); and automatically triggering

electronic delivery of the message to the intended recipient upon the second, mobile

client being determined to have arrived at a designated position relative to the position

of the third client (Sections 0015 and 0101-0102).

Regarding claim 31, Teshima teaches wherein the third client is also a mobile

client having a position-determining device (Sections 0096 and 0100).

Regarding claim 32, Teshima teaches wherein the first and second clients are

the same client (Sections 0097-0098).

Regarding claim 33, Teshima teaches enabling each of the plurality of users to

send and receive electric message data (Sections 0072, 0075, 0082, and 0149);

processing and storing electronic message data provided by the sender

(Sponsor/User) (Sections 0015, 0047-0051, and 0068); tracking the position of the

specified mobile object (Sections 0015 and 0099-0100); and automatically delivering

the stored message data10 (Figs. 1 and 2) to the intended recipient upon arrival of the

specified mobile object at a designated location (Sections 0015 and 0101-0102).

Regarding claim 34, Teshima teaches wherein the message data includes the

message, the intended recipient, and a delivery rule (Sections 0015, 0047-0051, and

0068).

Regarding claim 35, Teshima teaches wherein the message data includes the

message (0047-0051).

Regarding claim 36, Teshima teaches wherein the message data includes the

intended recipient (Sections 0015, 0047-0051, and 0068).

Regarding claim 37, Teshima teaches wherein the message data includes a

delivery rule (Sections 0015, 0047-0051, and 0068).

Regarding claim 38, Teshima teaches wherein the message data includes

identity of the specified mobile object (Sections 0015, 0047-0051, and 0068).

Regarding claim 39, Teshima teaches wherein the message data includes the

designated location (Sections 0015 and 0047).

Regarding claim 40, Teshima teaches the means for enabling the sender and the

intended recipient to send and receive an electronically deliverable message (Sections

0072, 0075, 0082, and 0149); means for obtaining a message provided by the sender

(Sponsor/User) (Sections 0015 and 0047-0051); means for obtaining a location

designated by the sender for delivery of the message (Sections 0015 and 0047-0051);

means for tracking a specified mobile object having a position-determining device that

determines its own current position, and which transmits its then current position at preset time intervals (Sections 0015 and 0096); means for determining from the transmitted current position whether the specified mobile object has reached the designated location (Sections 0015 and 0099-0100); and means for initiating a procedure for automatic delivery of the message electronically to the intended recipient upon the specified mobile object being determined to have reached the designated location (Sections 0015 and 0101-0102).

Regarding claim 41, Teshima teaches means for obtaining, at the server, a message based on input from a first client (Sponsor/User) (Sections 0015 and 0047-0051); means for obtaining, at the server, a designated location based on input from the first client (Sections 0015 and 0047-0051); means for obtaining, at the server, an identification of a second client as the intended recipient of the message, based on input from the first client (Section 0051 and 0068); means for obtaining, at the server, identification of a mobile client to be tracked for delivery of the message (Section 0051 and 0068); means for determining, from the position-determining device of the client to be tracked for delivery of the message, whether the client being tracked has arrived at the designated location (Sections 0015 and 0099-0100); and means for automatically triggering electronic delivery of the message to the intended recipient upon the tracked mobile client being determined to have arrived at the designated location (Sections 0015 and 0101-0102).

Regarding claim 42, Teshima teaches means for obtaining, at the server, a message based on input from a first client (Sponsor/User) (Sections 0015 and 0047-

0051); means for obtaining, at the server, a designated location based on input from the first client (Sections 0015 and 0047-0051); means for obtaining, at the server, a delivery rule based on input from the first client for delivering the message to an intended recipient, wherein the delivery rule includes arrival of a specified mobile client at the designated location (Sections 0047-0051 and 0068); means for determining, from the position-determining device of the mobile client, whether the specified mobile client has arrived at the designated location (Sections 0015 and 0099-0100); and means for upon the specified mobile client being determined to have arrived at the designated location, triggering electronic delivery of the message to the intended recipient, based upon the delivery rule (Sections 0015 and 0101-0102).

Regarding claim 45, Teshima teaches means for obtaining a message based on input from the sender (Sponsor/User) (Sections 0015 and 0047-0051); means for obtaining a designated location based on input from the sender (Sections 0015 and 0047-0051); means for obtaining identification of at least two recipients, from among the plurality of potential recipients, specified based on input from the sender as intended recipients of the message (Sections 0047-0051, 0068, and 0099-0100); and means for automatically delivering the message electronically to one of the intended recipients based upon the position of the one of the intended recipients relative to another of the intended recipients, as derived from the position-determining technology (Sections 0015 and 0101-0102).

Regarding claim 46, Teshima teaches means for obtaining, at the server, a message based on input from a first client (Sponsor/User) (Sections 0015 and 0047-

0051); means for obtaining, at the server, an identification of a second, mobile client as the intended recipient of the message, based on input from the first client (Sections 0047-0051, 0068, and 0099-0100); means for obtaining, at the server, an identification of a third client, based on input from the first client (Sections 0047-0051, 0068, and 0099-0100); and means for automatically triggering electronic delivery of the message to the intended recipient upon the second, mobile client being determined to have arrived at a designated position relative to the position of the third client (Sections 0015 and 0101-0102).

Regarding claim 47, Teshima teaches means for enabling the sender and the intended recipient to send and receive an electronically deliverable message (Sections 0072, 0075, 0082, and 0149); means for processing and storing message data provided by the sender (Sponsor/User) (Sections 0015, 0047-0051, and 0068); means for tracking the position of the specified mobile object (Sections 0015 and 0099-0100); and means for automatically delivering a message electronically to the intended recipient upon arrival of the specified mobile object at a designated location (Sections 0015 and 0101-0102).

Regarding claim 48, Teshima teaches obtaining a message provided by the sender (Sponsor/User) (Sections 0015 and 0047-0051); obtaining a location designated by the sender for delivery of the message (Sections 0015 and 0047-0051); tracking a specified mobile object having a position-determining device 56 (Fig. 3 and Sections 0147-0148) that determines its own current position, and which transmits its then current position at preset time intervals(Sections 0082, 0092-0093, and 0096);

determining from the transmitted current position whether the specified mobile object

has reached the designated location (Sections 0015 and 0099-0100); and initiating a

procedure for automatic delivery of the message electronically to the intended recipient

upon the specified mobile object being determined to have reached the designated

location, wherein the specified mobile object is other than the intended recipient

(Sections 0015 and 0099-0100).

Regarding claim 50, Teshima teaches obtaining a message provided by the

sender (Sponsor/User) (Sections 0015 and 0047-0051); obtaining a location

designated by the sender for delivery of the message (Sections 0015 and 0047-0051);

tracking a specified mobile object having a position-determining device 56 (Fig. 3 and

Sections 0147-0148) that determines its own current position, and which transmits its

then current position at preset time intervals(Sections 0082, 0092-0093, and 0096);

determining from the transmitted current position whether the specified mobile object

has reached the designated location (Sections 0015 and 0099-0100); and initiating a

procedure for automatic delivery of the message electronically to the intended recipient

upon the specified mobile object being determined to have reached the designated

location (Sections 0015 and 0099-0100), wherein the message is at least one of data,

text, audio and video modes (Sections 0018, 0100, and 0149).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

4.   Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Teshima

(US Pat Appl# 2002/0032035) in view of Meunier (US Pat Appl# 2005/0113107).

Regarding claim 4, Teshima' s method for delivery of advertisement information

to mobile units teaches the limitations in claim 1. Teshima fails to teach an intended

recipient is a stationary object.

Meunier's method for determining proximity of devices in a wireless network

teaches wherein the intended recipient is a stationary object (Section 0012).

Therefore, it would have been obvious at the time of the invention to one of

ordinary skill in the art at the time the invention was made to incorporate an intended

recipient is a stationary object as taught by Meunier into Teshima's method for delivery

of advertisement information to mobile units in order to improve location monitoring

(Sections 0005 and 0006).

5.   Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Teshima

(US Pat Appl# 2002/0032035) in view of Vataja (US Pat Appl# 2002/0123327).

Regarding claim 6, Regarding claim 4, Teshima' s method for delivery of

advertisement information to mobile units teaches the limitations in claim 1. Teshima

fails to teach the sender is a mobile object.

Vataja's method for transmitting a location-based message, a message

transmission system and a wireless communication device teaches wherein the sender

is a mobile object (Sections 0027-0028).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate the sender is a mobile object as taught by Vataja into Teshima's method for delivery of advertisement information to mobile units in order to give the user more options (Section 0003).

6.   Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Teshima (US Pat Appl# 2002/0032035) in view of Owensby (US Pat# 6,647,257).

Regarding claim 49, Teshima's method for delivery of advertisement information to mobile units teaches obtaining a message provided by the sender (Sponsor/User) (Sections 0015 and 0047-0051); obtaining a location designated by the sender for delivery of the message (Sections 0015 and 0047-0051); tracking a specified mobile object having a position-determining device 56 (Fig. 3 and Sections 0147-0148) that determines its own current position, and which transmits its then current position at preset time intervals(Sections 0082, 0092-0093, and 0096); determining from the transmitted current position whether the specified mobile object has reached the designated location (Sections 0015 and 0099-0100); and initiating a procedure for automatic delivery of the message electronically to the intended recipient upon the specified mobile object being determined to have reached the designated location (Sections 0015 and 0099-0100), wherein the message is at least one of data, text, audio and video modes (Sections 0018, 0100, and 0149). Teshima fails to teach wherein a mode in which the message is reproduced for the intended recipient is in accordance with a setting controlled by the intended recipient.

Owensby's method for providing targeted messages based on wireless mobile

location teaches a mode in which the message is reproduced for the intended recipient

is in accordance with a setting controlled by the intended recipient (Col. 9 line 50-Col.

10 line 11).

Therefore, it would have been obvious at the time of the invention to one of

ordinary skill in the art at the time the invention was made to incorporate a mode in

which the message is reproduced for the intended recipient is in accordance with a

setting controlled by the intended recipient as taught by Owensby into Teshima's

method for delivery of advertisement information to mobile units in order to subsidize

the cost and offer interactivity (Col. 10 lines 14-62).

Response to Arguments

Applicant's Remarks	Examiner's Response
Regarding claim 28, "However, a study by the undersigned of the sections relied upon by the Examiner failed to reveal any text which even remotely discloses the subject feature of the present claimed invention."	In section 0015 it points out a location set by a sponsor. The location spot is "based upon the position of the one of the intended recipients." While the other person with the mobile communication instrument is the "another of the intended recipients." In the claim it does not state any characteristics (mobile device, location spot, etc.) of the intended recipient.
Regarding claim 30, "Teshima cannot be	Similar to the above response, in section

an anticipatory reference for this claim."	0015 it points out sender of the message can be read as the "first client." The person receiving the message through the mobile communication instrument can be read as the "second client." Finally, the location of the intended message can be read as the "third client." Only the "second client" is specified to be a "mobile client." Therefore, the first and third clients can read on the above interpretation by the examiner since client is not defined and the interpretation reads on the limitations of the claim language.

Conclusion

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Andrew Wendell whose telephone number is 571-272-

0557. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.
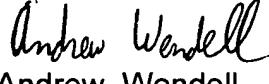
Andrew Wendell
Examiner
Art Unit 2618

8/24/2006

QUOCHIEN B. VUONG
PRIMARY EXAMINER